

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 1:19cr00133

RAY PARHAM

CHANGE OF PLEA HEARING

BEFORE THE HONORABLE LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE

NOVEMBER 8, 2019
GULFPORT, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT:

SHUNDRA L. COLE, ESQUIRE
U.S. ATTORNEY'S OFFICE - GULFPORT
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FOR THE DEFENDANT:

JOHN WEBER, ESQUIRE
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2012 15TH STREET, SUITE 403

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(228) 563-1751

1 THE COURT: Madam Clerk, would you please call the
2 first case.

3 DEPUTY CLERK: The United States District Court for
4 the Southern District of Mississippi, Southern Division.
5 Criminal case number 1:19cr133, United States of America versus
6 Ray Parham, set for change of plea.

7 THE COURT: What says the government?

8 MS. COLE: Good morning, Your Honor. Shundral Cole
9 for the government, and we're ready to proceed.

10 THE COURT: Good morning, Ms. Cole. What says the
11 defendant?

12 MR. WEBER: Your Honor, we're ready.

13 THE COURT: Good morning, Mr. Weber. If you and your
14 client would take a place at the lecturn, please.

15 Let the record reflect that Mr. Parham is before the Court
16 on a change of plea wherein he intends to enter a plea of
17 guilty to an information, an information which alleges a
18 violation of Title 21 of the United States Code, Section 846,
19 that is Possession with Intent to Distribute a Controlled
20 Substance.

21 Let the record also reflect that Mr. Parham's willingness
22 to plead guilty to this Bill of Information comes as a result
23 of a plea bargain, a plea bargain which has been reduced to
24 writing in the form of a plea agreement and a plea supplement.

25 Mr. Weber, do you have the original of those documents?

1 MR. WEBER: Yes, Your Honor.

2 THE COURT: Would you provide them to the Court
3 Security Officer, please.

4 Very well. The plea agreement in the form of a plea
5 supplement and a written plea agreement have been revealed in
6 open court. I'll ask that the clerk make them a part of the
7 record.

8 Pursuant to Rule 11(c)(2) of the Federal Rules of Civil
9 Procedure, the plea supplement, of course, will be filed under
10 seal.

11 The Court notes that these documents have been executed by
12 counsel for the government, counsel for the defendant, and by
13 Mr. Parham himself.

14 Good morning, Mr. Parham.

15 DEFENDANT: Good morning.

16 THE COURT: Mr. Parham, before I can accept your plea
17 of guilty to this Bill of Information, I will need to ask you a
18 series of questions. Now, the purpose of the questions I ask
19 you will be to ensure that when you answer them, I'm able to
20 determine whether your plea of guilty is knowing and whether it
21 is voluntary. And we'll also want to require the government to
22 provide a separate and independent factual basis, that means
23 facts that would sustain this particular charge. These
24 questions that I ask you, you're required to answer under oath.
25 So would you please raise your right hand, and the Clerk of the

1 Court will administer the oath.

2 (Oath Administered)

3 THE COURT: Let the record also reflect that Mr.
4 Parham has been before the magistrate judge earlier this
5 morning, Magistrate Judge Walker, wherein he was advised of his
6 right to grand jury presentment and indictment and has executed
7 a Waiver of Indictment after being advised of his right.

8 Mr. Parham, would you please state your full name, sir.

9 DEFENDANT: Ray Lester Parham, Junior.

10 THE COURT: Do you pronounce it Parham or Parham?

11 DEFENDANT: Either or.

12 THE COURT: What would you prefer?

13 DEFENDANT: Parham.

14 THE COURT: Parham. Mr. Parham, how old are you,
15 sir?

16 DEFENDANT: Forty-seven.

17 THE COURT: And tell me, sir, how far did you go in
18 school?

19 DEFENDANT: Twelfth grade.

20 THE COURT: Did you graduate from high school?

21 DEFENDANT: I went to a Job Corps. and got a GED.

22 THE COURT: Where did you obtain your GED?

23 DEFENDANT: Atterbury Job Corps.

24 THE COURT: Where is that located?

25 DEFENDANT: Edinburgh, Indiana.

1 THE COURT: Where were you born?

2 DEFENDANT: Indianapolis, Indiana.

3 THE COURT: Would you consider yourself an Indiana
4 resident?

5 DEFENDANT: Yes, sir.

6 THE COURT: Tell me something about the types of jobs
7 that you have held, Mr. Parham.

8 DEFENDANT: I've done a little heavy equipment,
9 foundation, (unintelligible) controlling. And the rest of my
10 time, I've been doing a lot of forklift driving, cherry
11 picking.

12 THE COURT: Sounds to me like you're an experienced
13 heavy equipment operator, would that be accurate?

14 DEFENDANT: Yes, sir.

15 THE COURT: In order to do that, were you required to
16 have any training?

17 DEFENDANT: Atterbury Job Corps.

18 THE COURT: You got that at the Job Corps.?

19 DEFENDANT: Yeah.

20 THE COURT: Were you required to have any particular
21 licensing or any particular, not going to call it licensing or
22 any -- before they let you get on the cherry picker, for
23 example, did they require you to take a test, get a license?

24 DEFENDANT: Yes, sir. I had a couple tests.

25 THE COURT: What types of licenses did you have to

1 operate heavy equipment?

2 DEFENDANT: I just went through the OSHA, OSHA
3 program.

4 THE COURT: All right. And how long have you been
5 doing that, Mr. Parham?

6 DEFENDANT: The heavy equipment or just --

7 THE COURT: Heavy equipment work.

8 DEFENDANT: I did that for a year, about a year and
9 some months for a company called Fast Steel that is no longer
10 existing. But after that, like I say, it was just all
11 forklift, warehouse driver.

12 THE COURT: Of all the heavy equipment that you're
13 able to operate, which one would you say is the most difficult
14 to operate?

15 DEFENDANT: The scraper.

16 THE COURT: Tell me why, in your judgment, that's the
17 most difficult one to operate.

18 DEFENDANT: The scraper has a lot of gears to it, a
19 whole lot of gears to it. And the way it moves, as far as the
20 position that you can put yourself in, it could throw you off
21 or, you know -- it's a dangerous piece of machinery, so I find
22 it difficult because of the gears, really. It just has more
23 gears than the others.

24 THE COURT: But you are experienced in actually
25 operating one?

1 DEFENDANT: Yes, sir.

2 THE COURT: Have you been treated recently for mental
3 illness or addiction to narcotic drugs?

4 DEFENDANT: No, sir.

5 THE COURT: Are you currently under the influence of
6 any drug, medication or alcoholic beverage?

7 DEFENDANT: No, sir.

8 THE COURT: Mr. Parham, have you been provided with a
9 copy of this Bill of Information? Of course, the Bill of
10 Information, that is the charging document in this case, and
11 have you had an opportunity to go over the charge in the Bill
12 of Information and your case in general with your lawyer, Mr.
13 Weber?

14 DEFENDANT: Yes, sir, I have.

15 THE COURT: Did he explain this particular charge to
16 you?

17 DEFENDANT: Yes, sir.

18 THE COURT: And did you understand his explanations?

19 DEFENDANT: Yes, Your Honor.

20 THE COURT: Did Mr. Weber also discuss with you and
21 go over with you possible defenses that you might have to the
22 charge?

23 DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: And did he also discuss with you and
25 share with you the evidence in this case, that is the evidence

1 that the government would have presented in the event that the
2 case had gone to trial?

3 DEFENDANT: Yes, sir.

4 THE COURT: Mr. Parham, are you fully satisfied with
5 the counsel, the representation and the advice that Mr. Weber
6 has given you so far?

7 DEFENDANT: Yes, sir, I am.

8 THE COURT: Mr. Parham, it is apparent that you've
9 entered into a plea bargain with the government. That plea
10 bargain has been reduced to writing and has now been made a
11 part of the record. I've also noted in the record that you
12 signed the plea agreement and the plea supplement; is that
13 accurate?

14 DEFENDANT: Yes, sir.

15 THE COURT: But before you signed those documents,
16 did you have an opportunity to read them and to go over them
17 with your lawyer?

18 DEFENDANT: Yes, sir, Your Honor, I did.

19 THE COURT: Did you understand all of the terms and
20 all of the conditions of your plea agreement with the
21 government?

22 DEFENDANT: Yes, sir.

23 THE COURT: Mr. Parham, other than the plea
24 agreements that are now part of the record, has anyone made you
25 any other offers or promises or inducements of any kind in

1 order to persuade you to plead guilty?

2 DEFENDANT: No, sir.

3 THE COURT: Has anyone threatened you, forced you, or
4 in any manner attempted to coerce you into a plea of guilty
5 here today?

6 DEFENDANT: No, sir.

7 THE COURT: Mr. Parham, I noticed in the plea
8 agreement that you have with the government, the government has
9 decided that their responsibility will be to make certain
10 sentencing recommendations. Specifically, they are going to
11 recommended that the Court sentence you within the applicable
12 advisory Federal Sentencing Guidelines. Is that also your
13 understanding?

14 DEFENDANT: Yes, sir.

15 THE COURT: They're also going to recommended to the
16 Court that the Court make a finding that your responsibility in
17 this case is limited to 2-kilograms of cocaine. Is that also
18 your understanding?

19 DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: Now, Mr. Parham, the government is, of
21 course, required to make those recommendations as part of the
22 plea agreement, but do you understand, sir, that the Court is
23 not required to accept them; in other words, I could very well
24 reject those recommendations and you could be sentenced up to
25 the maximum penalty which is provided by law, do you understand

1 that?

2 DEFENDANT: Yes, sir.

3 THE COURT: Mr. Parham, do you understand, sir, that
4 the maximum penalty for a violation of Title 21 of the United
5 States Code, Section 846, as is alleged in this Bill of
6 Information is a term of imprisonment of not less than five
7 years, and not more than 40 years; a fine which could be as
8 high as \$5 million; a term of supervised release of at least
9 four years; and a mandatory special assessment in the amount of
10 \$100? Now that is the maximum penalty which is provided by
11 law, do you understand that?

12 DEFENDANT: Yes, sir, I do.

13 THE COURT: Are you aware and do you understand what
14 it means to be placed on supervised release?

15 DEFENDANT: Yes, sir.

16 THE COURT: Have you discussed that with Mr. Weber?

17 DEFENDANT: Yes, I did.

18 THE COURT: Mr. Parham, do you understand, sir, that
19 while on supervised release, if you were to violate any of the
20 terms of your supervised release, that could very well result
21 in a revocation of your supervised release? And if your
22 supervised release were to be revoked, you could be sentenced
23 to an additional term of imprisonment. It could be for the
24 maximum term of supervised release without any credit for the
25 time you had already served on supervised release. Is that

1 your understanding, sir?

2 DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: Mr. Parham, I'm sure that you understand
4 that sentencing will not occur today; however, you need to
5 understand before you leave here today that sentencing in the
6 federal system is based on certain factors. Among those
7 factors, and an important factor is the application of the
8 advisory Federal Sentencing Guidelines. Now, have you and Mr.
9 Weber discussed how the Federal Sentencing Guidelines might
10 apply to your case?

11 DEFENDANT: Yes, sir.

12 THE COURT: Mr. Parham, are you aware, sir, that the
13 Court will not be able to determine your guideline computations
14 or your guideline range until after the probation office has
15 prepared a Presentence Investigation Report, and both you and
16 the government have had a chance to read it and challenge it?

17 DEFENDANT: Yes, sir.

18 THE COURT: You understand, also, Mr. Parham, that
19 any predictions or calculations that Mr. Weber may have made on
20 your behalf could be different from the sentence that you
21 receive from the Court?

22 DEFENDANT: Yes, sir.

23 THE COURT: Mr. Parham, under some circumstances the
24 Court has the authority to depart, either upward or downward,
25 from the advisory guideline range. And after the Court has

1 considered your advisory guidelines, and has also considered
2 all of the other statutory factors that may apply to your case,
3 that could result in a sentence that is more severe or is less
4 severe than that which is called for by these guidelines, do
5 you understand that?

6 DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: And do you understand, Mr. Parham, that
8 these guidelines that I'm referring to, they are not mandatory,
9 they are advisory. That means that the Court always retains
10 the authority, that is the discretion, to sentence you up to
11 the maximum penalty which is provided by law as we earlier
12 discussed if, in the judgment of the Court, that is the
13 appropriate sentence for your particular conduct, do you
14 understand?

15 DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that under some
17 circumstances either you or the government would have the right
18 to appeal the sentence; however, as part of your plea agreement
19 with the government, you've agreed that you will waive, now
20 waiving means to give up, the right to appeal the conviction,
21 or the sentence imposed in this case on any ground whatsoever;
22 is that accurate?

23 DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: I see that you have also agreed that you
25 will waive, that is give up, the right to contest the

1 conviction, to contest the sentence, or the manner in which the
2 sentence is imposed in any post-conviction proceeding; is that
3 also correct?

4 DEFENDANT: Yes, sir.

5 THE COURT: Now, bear in mind, Mr. Parham, that the
6 rights that you are giving up in your plea agreement, that is
7 the right to appeal a sentence or to contest it in a
8 post-conviction proceeding, those are very valuable, and you
9 should not give up those rights unless you've given it very
10 careful consideration and talked it over with your lawyer.
11 Have you discussed with Mr. Weber this particular aspect of
12 your plea agreement?

13 DEFENDANT: Yes, sir, I have.

14 THE COURT: Has anyone made you any side offers,
15 promises or inducements, or has anyone forced you or threatened
16 you in order to cause you to waive these rights?

17 DEFENDANT: No, sir.

18 THE COURT: Mr. Weber, have you counseled with your
19 client regarding his willingness to waive the right to appeal
20 the sentence or to contest it in a post-conviction proceeding
21 and are you satisfied that those waivers are knowing and
22 voluntary?

23 MR. WEBER: Yes, Your Honor.

24 THE COURT: Mr. Parham, do you understand, sir, that
25 you have the right to plead not guilty on this Bill of

1 Information. And if you were to plead not guilty, you would be
2 entitled to a trial by jury. At that trial, you would be
3 presumed to be innocent, and it would be the burden of the
4 government to prove your guilt beyond a reasonable doubt. At
5 that same trial, you would have the right to assistance of
6 counsel, the right to see, and hear, and to cross-examine any
7 of the government's witnesses. You would have the right to
8 call your own witnesses, and if necessary, compel their
9 attendance by subpoena. You, yourself, would have an
10 opportunity to testify. And if you chose not to testify or to
11 present any evidence at all, the jury could not consider your
12 election to remain silent as an indication of guilt or
13 innocence. Now, this is the right to trial, Mr. Parham. And
14 what I'm explaining to you is, in essence, that you have the
15 right to plead not guilty and to go to trial. Do you
16 understand that, sir?

17 DEFENDANT: Yes, sir.

18 THE COURT: Do you understand, also, that by entering
19 a plea of guilty to this Bill of Information, and if I accept
20 your plea of guilty, you will be giving up the right to trial
21 and all rights associated with trial as we've just discussed,
22 do you understand that?

23 DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: Mr. Parham, you are charged in this Bill
25 of Information, again, with a violation that can be found under

1 Title 21 of the United States Code, Section 846. It
2 specifically alleges that beginning in or around December of
3 2018, and continuing up to March 13th of 2019, and within this
4 judicial district, that is the Southern District of
5 Mississippi, that you did knowingly and intentionally conspire,
6 that is agree together with others, to possess with the intent
7 to distribute more than 500 grams, but less than 5-kilograms of
8 cocaine. Now, is this the charge to which you wish to plead
9 guilty?

10 DEFENDANT: Yes, sir.

11 THE COURT: Once again, Mr. Parham, do you
12 understand, sir, that were you to plead not guilty to that
13 charge, the government would be required to prove all of those
14 facts, and they would have to prove them beyond a reasonable
15 doubt before the jury could return a verdict of guilty, you
16 understand that?

17 DEFENDANT: Yes, sir.

18 THE COURT: Mr. Cole, would you please place into the
19 record those facts the government is prepared to show in the
20 event the case had gone to trial.

21 Mr. Parham, I invite you, sir, to listen carefully to what
22 the prosecution says about the facts in the case. We want to
23 be sure that those facts are accurate. Your Honor, if put to
24 its proof at trial the government would show through evidence,
25 such as witness testimony, audio recordings, video recordings,

1 and text messages, that beginning in December 2018, an HSI
2 Confidential Informant was introduced to Ray Parham by Fortrell
3 Latrae Sain. Throughout December 2018 through January 2019,
4 the CI and Mr. Parham engaged in conversations related to the
5 purchase of cocaine by Parham from the Confidential Informant.
6 During these conversations, Mr. Parham told the CI that his
7 cousin, who was later identified as Riondal Taylor, was the
8 money man and would be coming to Mississippi with Parham to
9 meet the CI.

10 On January 18, 2019, Mr. Parham and Mr. Taylor flew into
11 the Gulfport/Biloxi airport. The CI picked up Mr. Parham and
12 Mr. Taylor from the airport and took them to a restaurant in
13 Gulfport, Mississippi, to discuss the purchase of cocaine.
14 During the meeting, an undercover agent arrived at the
15 restaurant and conducted what's known as a flash of 2-kilograms
16 of actual cocaine. Mr. Parham and Mr. Taylor reviewed the
17 cocaine and agreed to purchase it from the Confidential
18 Informant in the near future.

19 Conversations between the Confidential Informant and Mr.
20 Parham continued. In March of 2019, the CI, under the
21 supervision of HSI agents, traveled to Indianapolis, Indiana.
22 On March 13, 2019, the CI contacted Mr. Parham to arrange the
23 delivery of the cocaine. Mr. Parham told the CI that he was
24 unable to meet, but stated that Mr. Taylor would meet the CI to
25 show some of the money. The CI called and told Mr. Parham that

1 he was at a business located in the 1000 block of North Emerson
2 Avenue in Greenwood, Indiana. A short time later, Mr. Parham
3 called the CI and told him that Mr. Taylor was in the parking
4 lot. Mr. Taylor arrived at the location, and the CI approached
5 Mr. Taylor's vehicle. The CI and Mr. Taylor walked to the back
6 of the vehicle, and Mr. Taylor opened the trunk. At that
7 point, Mr. Taylor showed the CI a plastic bag which contained
8 approximately \$130,000. The CI told Mr. Taylor that he would
9 contact the driver who had the cocaine. And at that point, the
10 CI then contacted HSI Agent Jason Elder to inform him that the
11 money for the cocaine was in the trunk of the vehicle that
12 Mr. Taylor was driving. At that point, members of the Indiana
13 State Police arrived on scene and arrested Mr. Taylor, and
14 Agent Elder arrived and located the \$130,000 that was in the
15 vehicle.

16 Later that evening, Mr. Parham called the CI and wanted to
17 know what happened with Mr. Taylor. The CI told Mr. Parham
18 that Mr. Taylor showed up and wanted the CI to follow him, but
19 the CI told Mr. Parham that he didn't want to. The CI told Mr.
20 Parham that Mr. Taylor then left, and Mr. Parham asked the CI
21 to meet with him. The CI told Mr. Parham to meet him at a
22 hotel in the 7200 block of Woodland Drive in Indianapolis. At
23 approximately 7:00 p.m. that same day, Mr. Parham arrived at
24 the hotel. As he parked his vehicle, an Indiana State Trooper
25 approached and smelled a strong odor of burnt marijuana coming

1 from the vehicle. An Indiana State Trooper narcotic detection
2 canine alerted on the front passenger board of the vehicle.
3 Mr. Parham was then arrested and transported to the HSI
4 Indianapolis office. He was advised of his Miranda Rights and
5 agreed to make a statement. Mr. Parham stated that he had
6 received a call from Mr. Sain a few months prior. And in that
7 phone call, Mr. Sain told him that he had a connection that
8 could provide him with cocaine. Mr. Parham told agents that he
9 was behind on his mortgage and needed to make extra money, and
10 he stated that Mr. Taylor had the money, so he reached out to
11 him in order to conduct the transaction for the purchase of
12 cocaine.

13 And Your Honor, this is what the government would've
14 proven at trial if it had been put to its proof.

15 THE COURT: Mr. Parham, were you able to hear what
16 the prosecution has told the Court they could prove if the case
17 were to go to trial, sir?

18 DEFENDANT: Yes, sir.

19 THE COURT: Are those facts true and correct?

20 DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: Then to the charge pending in this Bill
22 of Information, that is conspiracy to possess with intent to
23 distribute 500 or more grams, but less than 5-kilograms of
24 cocaine, how do you plead, sir, guilty or not guilty?

25 DEFENDANT: Guilty, Your Honor.

1 THE COURT: It is the finding of the Court that the
2 defendant is fully competent and fully capable of entering an
3 informed plea, that he is aware of the nature of the charge and
4 the consequences of that plea. And it is also the finding of
5 the Court that the defendant's plea of guilty is a knowing and
6 a voluntary plea which is supported by an independent basis in
7 fact containing each of the essential elements of the offense
8 charged. His plea of guilty is therefore accepted, and Mr.
9 Parham is adjudged guilty of that offense.

10 Mr. Parham, as I told you before, sir, sentencing will not
11 occur today. Instead, I am going to ask that the Probation
12 Office prepare a Presentence Investigation Report. Now, that
13 is a very comprehensive report that will assist the Court in
14 determining what the sentence should be in your particular
15 case. This gentleman seated over here to my left, he is one of
16 the probation officers. It is likely that he will participate
17 in the preparation of that report, and you may be asked to
18 provide some information during the preparation of the report.
19 If you wish, you may have Mr. Weber present with you during any
20 interview with the probation officer.

21 Prior to sentencing, you will be given an opportunity to
22 read that report, go over it with your lawyer and challenge it
23 if you determine that it is in error.

24 Prior to sentencing you will also be given an opportunity
25 to present additional materials which may touch upon the

1 statutory sentencing factors the Court considers, and you will
2 of course be given the opportunity to speak on your own behalf
3 before any sentence is imposed.

4 Sentencing in this case is scheduled for January the 29th
5 of 2020 at 1:30 p.m. here in Gulfport. That will be Mr.
6 Parham's next scheduled court appearance. January 29th, 2020,
7 1:30 p.m. in Gulfport.

8 Anything else on behalf of the government at this time?

9 MS. COLE: No, Your Honor.

10 THE COURT: Mr. Weber, anything else on behalf of Mr.
11 Parham at this time?

12 MR. WEBER: No, Your Honor.

13 THE COURT: Mr. Parham, I must remand you back to the
14 custody of the United States Marshals. I'll ask that they
15 return you here on the 29th of January, at which time we'll
16 take up a sentencing hearing. Thank you, gentlemen. You may
17 be excused.

18 DEFENDANT: Thank you, Your Honor.

19 (HEARING CONCLUDED)

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2 CERTIFICATE OF COURT REPORTER
3

4 I, Sherri L. Penny, RPR, FCRR, Official Court Reporter
5 for the United States District Court for the Southern District
6 of Mississippi, appointed pursuant to the provisions of Title
7 28, United States Code, Section 753, do hereby certify that the
8 foregoing is a correct transcript of the proceedings reported
9 by me using the stenotype reporting method in conjunction with
10 computer-aided transcription, and that same is a true and
11 correct transcript to the best of my ability and understanding.

12 I further certify that the transcript fees and format
13 comply with those prescribed by the Court and the Judicial
14 Conference of the United States.

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17 S/ Sherri L. Penny
18 OFFICIAL COURT REPORTER
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